

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION

IN RE: **Randy Wayne Essex**
Dawn Waynenette Essex
Debtor(s)

Case No.
Chapter 13 Proceeding

AMENDED **MODIFIED**
DEBTOR(S)' CHAPTER 13 PLAN

AND MOTIONS FOR VALUATION AND LIEN AVOIDANCE

Creditors are hereby notified that the following Plan may be amended at any time before confirmation. Any amendment may affect your status as a creditor. The Debtor's estimate of how much the Plan will pay, projected payments, and estimates of the allowed claims may also change. The following information advises creditors of the status of the case based on the information known at the time of its preparation. Any special concerns of a creditor may justify attendance at the Meeting of Creditors and such other action as may be appropriate under the circumstances. More detailed information is on file at the Office of the United States Bankruptcy Clerk in El Paso or Waco, Texas. Local Bankruptcy Rules and Standing Orders on procedures are available at the Clerk's Office and online at www.txwb.uscourts.gov.

Use of the singular word "Debtor" in this Plan includes the plural where appropriate.

Plan Summary

- A. The Debtor's Plan Payment will be Variable Payments, paid by Pay Order or Direct Pay for 60 months. The gross amount to be paid into the plan is \$51,945.00.
- B. The Plan proposes to pay all allowed priority claims in full, all secured claims to the extent of the value of the collateral or the amount of the claim, whichever amount is provided for in Section VI below, and approximately 78% of each unsecured allowed claim.

THIS PLAN DOES NOT ALLOW CLAIMS. YOU MUST FILE A PROOF OF CLAIM BY THE APPLICABLE DEADLINE TO RECEIVE DISTRIBUTIONS UNDER ANY PLAN THAT MAY BE CONFIRMED. CREDITORS ARE REFERRED TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE, THE LOCAL BANKRUPTCY RULES FOR THE WESTERN DISTRICT OF TEXAS, AND THE APPLICABLE STANDING ORDER RELATING TO CHAPTER 13 CASE ADMINISTRATION FOR THIS DIVISION, FOR INFORMATION ON THESE AND OTHER DEADLINES.

- C. The value of the Debtor's non-exempt assets is \$0.00.
- D. If the payment of any debt is proposed to be paid directly by the Debtor outside the Plan, it is so noted in Section VI(1), set forth below.

Plan Provisions

I. Vesting of Estate Property

- Upon confirmation of the Plan, all property of the estate shall vest in the Debtor and shall not remain as property of the estate.
- Upon confirmation of the Plan, all property of the estate shall not vest in the Debtor, but shall remain as property of the estate.
- Other (describe):

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Continuation Sheet # 1

II. Pre-Confirmation Disbursements

In accordance with the applicable Standing Order Relating to Chapter 13 Case Administration, the Debtor requests and consents to disbursement by the Chapter 13 Trustee of payments prior to confirmation of the Plan to evidence the Debtor's good faith, promote successful completion of the case, and to provide adequate protection to secured creditors. The Debtor shall remit such payments to the Trustee commencing 15 days after the filing of the petition. Provided all conditions for disbursement are met and unless otherwise ordered by the Court, the Trustee shall begin disbursing to creditors as provided below, on the first regularly scheduled disbursement after 30 days after the petition is filed. Payments under this paragraph will cease upon confirmation of the Plan.

Creditor/Collateral	Pre-Confirmation Payment Amount	Other Treatment Remarks
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III. Executory Contracts/Unexpired Leases/Contracts for Deed

Pursuant to 11 U.S.C. §1322(b)(7) of the Bankruptcy Code, the Debtor hereby elects to assume the following executory contracts, unexpired leases, and/or contracts for deed, if any:

Creditor Name	Description of Contract	Election	In Default
R&R Gym	Club Fees Contract ends March 2012	Assumed	No

Pursuant to 11 U.S.C. §1322(b)(7) of the Bankruptcy Code, the Debtor hereby elects to reject the following executory contracts, unexpired leases, and/or contracts for deed, if any:

Creditor Name	Description of Contract	Election	In Default
(None)			

IV. Motion to Value Collateral Pursuant to 11 U.S.C. § 506

The Trustee shall pay allowed secured claims, which require the filing of a proof of claim, to the extent of the value of the collateral or the amount of the claim, whichever amount is provided for in Section VI(2), hereof, plus interest thereon at the rate specified in this Plan. Except for secured claims for which provision is made to pay the full amount of the claim notwithstanding the value of the collateral, the portion of any allowed claim that exceeds the value of the collateral shall be treated as an unsecured claim under Section VI(2)(F).

The Debtor(s) move(s) to value the collateral described below in the amounts indicated. The values as stated below represent the replacement values of the assets held for collateral, as required under Section 506(a)(2). Objections to valuation of collateral proposed by this Motion and Plan must be filed no later than ten (10) days prior to the confirmation hearing date. If no timely response or objection is filed, the relief requested may be granted in conjunction with confirmation of the Plan.

Creditor / Collateral	Estimated Claim	Value of Collateral	Monthly Payment or Method of Disbursement	Interest Rate	Anticipated Total to Pay	Other Treatment/Remarks
Bac Home Loans Servici 225 CR 1630	\$10,220.00	\$10,220.00	Pro-Rata	0%	\$10,220.00	

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Continuation Sheet # 2

*"I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on
July 11, 2011 ."*

/s/ Randy Wayne Essex
Debtor

/s/ Dawn Waynenette Essex
Joint Debtor

V. Motion to Avoid Lien Pursuant to 11 U.S.C. § 522(f)

The Bankruptcy Code allows certain liens to be avoided. If a lien is avoided, the claim will not be treated as a secured claim but as an unsecured claim under Section VI(2)(F).

The Debtor moves to avoid the following liens that impair exemptions. Objections to lien avoidance as proposed in this Plan must be filed no later than ten (10) days prior to the confirmation hearing date. If no timely objection is filed, the relief requested may be granted in conjunction with confirmation of the Plan. (Debtor must list the specific exempt property that the lien impairs and the basis of the lien--e.g., judicial lien, nonpurchase-money security interest, etc.)

Creditor / Property subject to lien	Amount of Lien to be Avoided	Remarks

VI. Specific Treatment for Payment of Allowed Claims

1. PAYMENTS TO BE MADE BY THE DEBTOR DIRECTLY TO CREDITORS, INCLUDING POST-PETITION DOMESTIC SUPPORT OBLIGATIONS

A. Debtor(s) shall pay the following creditors directly. Creditors with claims based on a post-petition domestic support obligation ("DSO"), including all governmental units to which a DSO claim has been assigned, or is owed, or that may otherwise recover a DSO claim, MUST be paid directly. Minors should be identified by their initials only. If no DSO creditor is listed, the Debtor represents he/she has no domestic support obligation.

All direct payments listed below shall be made in addition to the Plan payments made by Debtor to the Chapter 13 Trustee as herein set forth. Secured creditors who are paid directly shall retain their liens, and the Debtor(s) shall maintain insurance on the collateral, in accordance with the terms of the documents creating the lien on the collateral.

Creditor / Collateral, if any (including the name of each DSO creditor)	Remarks	Debt Amount	Payment Amount/Interval
ALLY 2004 Chevy Tahoe		\$628.07	\$555.72
Attorney General Child Support		\$12.00	\$499.00
Bac Home Loans Servici 225 CR 1630		\$97,203.00	\$725.00

B. Debtor surrenders the following collateral. Confirmation of the Plan shall operate to lift the automatic stay provided by 11 U.S.C. § 362(a) with respect to the collateral listed, and any unsecured deficiency claim may be filed in accordance with the procedures set forth in the Standing Order Relating to Chapter 13 Case Administration for this Division.

Creditor/Collateral	Collateral to Be Surrendered

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Continuation Sheet # 3

2. PAYMENTS TO BE MADE BY TRUSTEE TO CREDITORS

A. Administrative Expenses

Administrative Expenses shall include the Trustee's commission and debtor's attorney's fees. The Trustee shall receive up to 10% of all sums disbursed, except on any funds returned to the Debtor. No fees or expenses of counsel for the debtor(s) may be paid until the filing fee is paid in full, and any fees and expenses that are allowed in addition to the fees and expenses originally agreed to be paid, may be paid only after all prior allowed fees and expenses have been paid.

Creditor	Estimated Amount of Debt	Payment Method: before secured creditors, after secured creditors, or along with secured	Remarks
James C. Herring	\$1,100.00	Along With	

B. Priority Claims, Including Domestic Support Obligation Arrearage Claims

Creditor	Estimated Amount of Debt	Payment Method: before secured creditors, after secured creditors, or along with secured	Remarks
Internal Revenue Service	\$1,087.53	Along With	

C. Arrearage Claims

Creditor / Collateral	Estimated Claim	Estimated Value of Collateral	Monthly Payment or Method of Disbursement	Interest Rate	Anticipated Total to Pay	Other Treatment/Remarks
Bac Home Loans Servici 225 CR 1630	\$10,220.00	\$10,220.00	Pro-Rata	0%	\$10,220.00	

D. Cure Claims on Assumed Contracts, Leases, and Contracts for Deed

Creditor/Subject Property, if any	Estimated Amount of Cure Claim	Monthly Payment or Method of Disbursement	Remarks

E. Secured Creditors

Secured creditors shall retain their liens on the collateral that is security for their claims until the earlier of the date the underlying debt, as determined under non-bankruptcy law, has been paid in full, or the date of discharge under 11 U.S.C. § 1328. Therefore, if the debtor's case is dismissed or converted without completing of all Plan payments, the liens shall be retained by the creditors to the extent recognized by applicable non-bankruptcy law.

Creditor/Collateral	Estimated Claim	Value of Collateral	Monthly Payment or Method of Disbursement	Interest Rate	Anticipated Total to Pay	Other Treatment/Remarks (specifically note if claim amount to be paid although greater than value of collateral)
Capital One Auto Finance 2007 Chevy Truck	\$12,657.00	\$12,487.50	\$237.09	5.25%	\$14,225.23	
HSBC Yamaha 4 Wheeler	\$1,827.00	\$3,500.00	\$34.69	5.25%	\$2,081.19	

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Continuation Sheet # 4

F. General Unsecured Creditors (including claims from rejection of contracts, leases and contracts for deed).
Describe treatment for the class of general unsecured creditors.

General Unsecured Creditors will receive approximately 78% of their allowed claims.

Totals:

Administrative Claims	<u>\$1,100.00</u>
Priority Claims	<u>\$1,087.53</u>
Arrearage Claims	<u>\$10,220.00</u>
Cure Claims	<u>\$0.00</u>
Secured Claims	<u>\$14,314.50</u>
Unsecured Claims	<u>\$23,084.50</u>

VII. Supplemental Plan Provisions

The following are the Supplemental Plan Provisions:

Step Fixed Payments Are Designated in This Plan

Under 11 U.S.C. Sec. 1325(a)(5)(B)(iii), each secured creditor is allowed to receive a fixed payment for the duration of the plan. This plan makes provision for step fixed payments. Unless an objection is filed by the secured creditor(s) regarding the variable payments, the variable payments will be deemed acceptable to that secured creditor for the duration of the plan.

Respectfully submitted this date: 7/11/2011.

/s/ Evan Simpson/Chance McGhee

Evan Simpson/Chance McGhee
6801 Sanger Ave., Ste. 190
Waco, TX 76710
Phone: (254) 399-9977 / Fax: (254) 399-9909
(Attorney for Debtor)

/s/ Randy Wayne Essex

Randy Wayne Essex
225 CR 1630
Clifton, TX 76634
(Debtor)

/s/ Dawn Waynenette Essex

Dawn Waynenette Essex
225 CR 1630
Clifton, TX 76634
(Joint Debtor)

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CHAPTER **13**

EXHIBIT "B" - VARIABLE PLAN PAYMENTS

PROPOSED PLAN OF REPAYMENT (VARIABLE PAYMENTS INTO THE PLAN)

<u>Month</u>	<u>Payment</u>	<u>Month</u>	<u>Payment</u>	<u>Month</u>	<u>Payment</u>
1	\$320.00	21	\$875.00	41	\$875.00
2	\$875.00	22	\$875.00	42	\$875.00
3	\$875.00	23	\$875.00	43	\$875.00
4	\$875.00	24	\$875.00	44	\$875.00
5	\$875.00	25	\$875.00	45	\$875.00
6	\$875.00	26	\$875.00	46	\$875.00
7	\$875.00	27	\$875.00	47	\$875.00
8	\$875.00	28	\$875.00	48	\$875.00
9	\$875.00	29	\$875.00	49	\$875.00
10	\$875.00	30	\$875.00	50	\$875.00
11	\$875.00	31	\$875.00	51	\$875.00
12	\$875.00	32	\$875.00	52	\$875.00
13	\$875.00	33	\$875.00	53	\$875.00
14	\$875.00	34	\$875.00	54	\$875.00
15	\$875.00	35	\$875.00	55	\$875.00
16	\$875.00	36	\$875.00	56	\$875.00
17	\$875.00	37	\$875.00	57	\$875.00
18	\$875.00	38	\$875.00	58	\$875.00
19	\$875.00	39	\$875.00	59	\$875.00
20	\$875.00	40	\$875.00	60	\$875.00

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Dawn Waynenette Essex
Joint Debtor

CHAPTER 13

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on July 11, 2011, a copy of the attached Chapter 13 Plan, with any attachments, was served on each party in interest listed below, by placing each copy in an envelope properly addressed, postage fully prepaid in compliance with Local Rule 9013 (g).

/s/ Evan Simpson/Chance McGhee

Evan Simpson/Chance McGhee
Bar ID:24060612/00791226
James C. Herring & Assoc.
6801 Sanger Ave., Ste. 190
Waco, TX 76710
(254) 399-9977

ALLY xxxious PO Box 78369 Phoenix, AZ 85062-8369	Bac Home Loans Servici xxxxx6959 450 American St Simi Valley, CA 93065	Discover Fin xxxxxxxxxxxx8074 PO Box 6103 Carol Stream, IL 60197
Angela Snyder P.O. Box 471 Sterling, OK 73657	Capital One Auto Finance xxxxxxxxxxxxx1001 3905 N Dallas Pkwy Plano, TX 75093	Financial Control Svc xxxxxxxxxxxx6215 6801 Sanger Ave Ste 195 Waco, TX 76710
Attorney General Child Support xxxxxx9186 Attn: Bankruptcy PO Box 12017 Credit Group Austin, TX 78711	Capital One, N.a. xxxxxxxxxxxx2719 Capital One Bank (USA) N.A. PO Box 30285 Salt Lake City, UT 84130	Financial Control Svc xxxxxxxxxxxx2688 6801 Sanger Ave Ste 195 Waco, TX 76710
Bac Home Loans Servici xxxxx6959 450 American St Simi Valley, CA 93065	Chase xxxxxxxxxxxx9436 Po Box 15298 Wilmington, DE 19850	Financial Control Svc xxxxxxxxxxxx9250 6801 Sanger Ave Ste 195 Waco, TX 76710

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CERTIFICATE OF SERVICE
(Continuation Sheet #1)

HSBC
xxxxxxxxxx0234
HSBC Retail Services/Attn: Bankruptcy
D
PO Box 5263
Carol Stream, IL 60197

Metabnk/fhut
xxxx9879
6250 Ridgewood Plaza
Saint Cloud, MN 56303

Hsbc Bank
xxxxxxxxxx1362
Po Box 5253
Carol Stream, IL 60197

Randy Wayne Essex
225 CR 1630
Clifton, TX 76634

Internal Revenue Service
xxxiou
Special Procedures Branch
300 E. 8th, Stop 5022AUS
Austin, TX 78701

Seventh Avenue
xxxxxxxx8570
1112 7th Ave
Monroe, WI 53566

Internal Revenue Service
P.O. Box 7346
Philadelphia, PA 19101-7346

Seventh Avenue
xxxxxxxx2570
1112 7th Ave
Monroe, WI 53566

Jefferson Capital Syst
xxxxxxxx0003
16 Mcleland Rd
Saint Cloud, MN 56303

Through The Country Do
xxxxxxxx8530
1112 7th Ave
Monroe, WI 53566

Lvnv Funding Llc
xxxxxxxxxx2453
Po Box 740281
Houston, TX 77274

Lvnv Funding Llc
xxxxxxxxxx3905
Po Box 740281
Houston, TX 77274